

103^D CONGRESS
1ST SESSION

H. R. 2239

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JUNE 30), 1993

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To authorize appropriations for the Securities and Exchange
Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securities and Ex-
5 change Commission Authorization Act of 1993”.

6 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

7 Section 35 of the Securities Exchange Act of 1934
8 (15 U.S.C. 78kk) is amended to read as follows:

1 “AUTHORIZATION OF APPROPRIATIONS

2 “SEC. 35. There are authorized to be appropriated
3 to carry out the functions, powers, and duties of the Com-
4 mission—

5 “(1) \$281,900,000 for fiscal year 1994; and

6 “(2) \$317,700,000 for fiscal year 1995.

7 Funds appropriated for any fiscal year pursuant to this
8 section are authorized to remain available during the suc-
9 ceeding fiscal year.”.

10 **SEC. 3. SECURITIES AND EXCHANGE COMMISSION FEES.**

11 (a) FULL COST RECOVERY OF COMMISSION EX-
12 PENSES.—The Securities Exchange Act of 1934 is further
13 amended by inserting after section 31 the following new
14 section:

15 “FULL COST RECOVERY OF COMMISSION EXPENSES

16 “SEC. 31A. (a) PURPOSE.—It is the purpose of this
17 section—

18 “(1) to establish a system for the annual ad-
19 justment of fees collected by the Commission so that
20 the total amount appropriated to the Commission
21 for any fiscal year will be offset by the amount col-
22 lected during such fiscal year; and

23 “(2) in order to permit an orderly transition to
24 this method of funding the Commission, to require
25 that such fees continue to collect general revenues
26 during each of the fiscal years 1994 through 1998

1 in amounts commensurate with the amount of such
2 revenues produced by such fees prior to the enact-
3 ment of this section.

4 “(b) ESTABLISHMENT OF ADJUSTED RATES.—

5 “(1) OBLIGATION TO ADJUST RATES TO RE-
6 COVER COST.—For each of the fiscal years after fis-
7 cal year 1993, the Commission, by rule or order,
8 shall adjust the rate of each of the fees described in
9 subsection (c) to secure (when combined with fees
10 collected during the period from October 1 through
11 December 31 under the rates then in effect) a total
12 amount of collections of such fees during such fiscal
13 year that can reasonably be expected to equal the
14 sum of—

15 “(A) the applicable surplus amount for
16 such fiscal year, if any; and

17 “(B) subject to subsection (e)(1), the
18 amount appropriated for such fiscal year of this
19 title (determined without regard to any reduc-
20 tion of the net amount appropriated that is at-
21 tributable to offsetting collections).

22 “(2) METHOD OF ADJUSTMENT.—Such rates
23 shall be adjusted by making an equal proportionate
24 change in each of such rates, except that the Com-
25 mission may round such proportionate changes to

1 avoid requiring rates that are unduly mathematically
2 complex.

3 “(3) EFFECTIVE DATE OF ADJUSTMENTS.—

4 Such adjusted rates shall apply—

5 “(A) with respect to any fee described in
6 paragraph (1), (2), (3), or (5) of subsection (c),
7 to any fee paid on or after January 1 of such
8 fiscal year; and

9 “(B) with respect to any fee described in
10 paragraph (4) of such subsection, to any fee
11 based on a transaction occurring on or after
12 January 1 of such fiscal year.

13 Any such adjusted rate shall continue to apply until
14 the effective date of a subsequent adjusted rate.

15 “(c) FEES TO WHICH ADJUSTMENTS APPLY.—For
16 purposes of this section, the fees described in this sub-
17 section are—

18 “(1) the fees collected under section 6(b) of the
19 Securities Act of 1933;

20 “(2) the fees collected under section 13(e) of
21 this title;

22 “(3) the fees collected under section 14(g) of
23 this title;

24 “(4) the fees collected under section 31 of this
25 title; and

1 “(5) the fees collected under section 203A of
2 the Investment Advisers Act of 1940.

3 “(d) APPLICABLE SURPLUS AMOUNT.—For purposes
4 of subsection (b)(1)(A), the applicable surplus amount is
5 equal to—

6 “(1) \$171,000,000 for fiscal year 1994;

7 “(2) \$174,000,000 for fiscal year 1995;

8 “(3) \$178,000,000 for fiscal year 1996;

9 “(4) \$181,000,000 for fiscal year 1997;

10 “(5) \$184,000,000 for fiscal year 1998; and

11 “(6) zero each succeeding fiscal year.

12 “(e) DEPOSIT AND CREDIT OF OFFSETTING COLLEC-
13 TIONS.—

14 “(1) OFFSETTING COLLECTIONS CONTINGENT
15 ON APPROPRIATIONS.—The authority of the Com-
16 mission to collect and deposit fees as offsetting col-
17 lections pursuant to paragraph (2) is available only
18 to the extent provided in advance in appropriations
19 Acts.

20 “(2) OFFSETTING COLLECTIONS.—Of the mon-
21 eys received during any fiscal year from fees de-
22 scribed in subsection (c), there shall (subject to
23 paragraph (1)) be deposited as an offsetting collec-
24 tion in, and credited to, the account providing ap-
25 propriations to carry out the functions described in

1 the sections referred to in such subsection, an
2 amount equal to the amount appropriated to the
3 Commission for such fiscal year (determined without
4 regard to any reduction attributable to such offset-
5 ting collections and excluding any amounts that are
6 permitted to remain available after the close of the
7 succeeding fiscal year).

8 “(3) GENERAL REVENUES.—The remainder of
9 any moneys received during any fiscal year (after
10 complying with paragraph (2)) shall be deposited in
11 the Treasury of the United States as miscellaneous
12 receipts.

13 “(f) JUDICIAL REVIEW; REPORTS TO CONGRESS.—
14 The determinations and adjustments made by the Com-
15 mission under this section shall not be subject to judicial
16 review. The Commission shall, not less than 30 days be-
17 fore the effective date of any adjustments required by this
18 section, submit such adjustments to the Congress together
19 with a report explaining the estimates and calculations on
20 which such adjustments are based.

21 “(g) RECLASSIFICATION FOR BUDGET PURPOSES.—

22 “(1) EFFECT ON DISCRETIONARY SPENDING
23 LIMITS.—For purposes of complying with section
24 251 of the Balanced Budget and Emergency Deficit
25 Control Act of 1985, the change mandated by sub-

1 section (e) of this section in the budgetary treatment
2 of certain moneys received from fees shall be treated
3 as a change in concepts and definitions within the
4 meaning of section 251(b)(1)(A) of that Act. Ac-
5 cordingly—

6 “(A) at the earliest time allowed by section
7 251(b)(1) of that Act, the Director of the Office
8 of Management and Budget shall adjust the
9 discretionary spending limits in accordance with
10 section 251(b)(1) to reflect this change in con-
11 cepts and definitions; and

12 “(B) if a final sequestration report under
13 section 254(g) of that Act is issued before the
14 adjustment under subparagraph (A) occurs, the
15 change in budgetary treatment mandated by
16 subsection (e) of this section shall be dis-
17 regarded for all purposes of that report.

18 “(2) EFFECT ON PAY-AS-YOU-GO LIMITS.—The
19 changes mandated by this section shall be treated as
20 affecting receipts for purposes of section 252 of that
21 Act only to the extent that the applicable surplus
22 amount differs from the surplus amount in the base-
23 line. For this purpose, the surplus amount in the
24 baseline shall be determined by subtracting the base-
25 line estimate of outlays of the Commission from the

1 baseline estimate of receipts generated by the fees
2 described in subsection (c).”.

3 (b) ADJUSTMENT OF FEES TO RECOVER COSTS.—

4 (1) CHANGES IN APPLICATION AND COLLEC-
5 TION OF TRANSACTION FEES UNDER SECTION 31 OF
6 THE SECURITIES EXCHANGE ACT OF 1934.—Section
7 31 of the Securities Exchange Act of 1934 (15
8 U.S.C. 78ee) is amended to read as follows:

9 “TRANSACTION FEES

10 “SEC. 31. (a) COST RECOVERY.—The Commission
11 shall, in accordance with this section and subject to section
12 31A(e), collect transaction fees to recover the costs of su-
13 pervision and regulation of, and enforcement with respect
14 to, securities markets and securities professionals. Such
15 costs shall include a proportional share of related Commis-
16 sion expenses in the following areas: enforcement activi-
17 ties, policy and rulemaking activities, administration, legal
18 services, investor information services, and international
19 regulatory activities.

20 “(b) EXCHANGE-TRADED SECURITIES.—Every na-
21 tional securities exchange shall pay to the Commission a
22 fee in an amount equal to 1/300th of 1 percent of the
23 aggregate dollar amount of sales of securities (other than
24 bonds, debentures, and other evidences of indebtedness)
25 transacted on such national securities exchange.

1 “(c) OFF-EXCHANGE-TRADED SECURITIES.—For
2 transactions occurring on or after January 1, 1994, every
3 national securities association shall pay to the Commission
4 a fee in an amount equal to 1/300th of 1 percent of the
5 aggregate dollar amount of sales transacted by or through
6 any member of such association otherwise than on a na-
7 tional securities exchange of—

8 “(1) securities registered on such an exchange
9 (other than bonds, debentures, and other evidences
10 of indebtedness); and

11 “(2) securities (other than bonds, debentures,
12 and other evidences of indebtedness) subject to
13 prompt last sale reporting pursuant to the rules of
14 a registered national securities association.

15 “(d) DATES FOR PAYMENT OF FEES.—For trans-
16 actions occurring on or after January 1, 1994, the fees
17 required by subsections (b) and (c) shall be paid semi-
18 annually. Fees shall be paid on September 15 for trans-
19 actions occurring during the period from the preceding
20 January 1 through June 30, and shall be paid on March
21 15 for transactions occurring during the period from the
22 preceding July 1 through December 31.

23 “(e) EXEMPTIONS.—The Commission, by rule, may
24 exempt any sale of securities or any class of sales of secu-
25 rities from any fee imposed by this section, if the Commis-

1 sion finds that such exemption is consistent with the pub-
2 lic interest, the equal regulation of markets and brokers
3 and dealers, and the development of a national market
4 system.

5 “(f) RATES SUBJECT TO ADJUSTMENT AND CONTIN-
6 GENT ON APPROPRIATIONS.—The fees required by this
7 section are subject to adjustment by the Commission pur-
8 suant to section 31A of this title. The authority to collect
9 such fees and the total amount of such fees are subject
10 to subsection (e) of such section.”.

11 (2) REGISTRATION FEES.—Section 6(b) of the
12 Securities Act of 1933 (15 U.S.C. 77f(b)) is amend-
13 ed to read as follows:

14 “(b)(1) The Commission shall, in accordance with
15 this subsection and subject to section 31A(e) of the Secu-
16 rities Exchange Act of 1934, collect registration fees to
17 recover the costs of services of the securities registration
18 process. Such costs shall include a proportional share of
19 related Commission expenses in the following areas: en-
20 forcement activities, policy and rulemaking activities, ad-
21 ministration, legal services, investor information services,
22 and international regulatory activities.

23 “(2) At the time of filing a registration statement,
24 the applicant shall pay to the Commission a fee of $\frac{1}{32}$
25 of 1 percent of the maximum aggregate price at which

1 such securities are proposed to be offered, but in no case
2 shall such fee be less than \$100.

3 “(3) The fees required by this subsection are subject
4 to adjustment by the Commission pursuant to section 31A
5 of the Securities Exchange Act of 1934. The authority to
6 collect such fees and the total amount of such fees are
7 subject to subsection (e) of such section.”.

8 (3) SELF-TENDERING TRANSACTIONS.—Section
9 13(e)(3) of the Securities Exchange Act of 1934 (15
10 U.S.C. 78m(e)(3)) is amended—

11 (A) by inserting after “(3)” the following:
12 “The Commission shall, in accordance with this
13 paragraph and subject to section 31A(e), collect
14 fees to recover the costs of supervision and reg-
15 ulation of, and enforcement with respect to, dis-
16 closure relating to transactions subject to this
17 subsection. Such costs shall include a propor-
18 tional share of related Commission expenses in
19 the following areas: enforcement activities, pol-
20 icy and rulemaking activities, administration,
21 legal services, investor information services, and
22 international regulatory activities.”;

23 (B) by striking “ $\frac{1}{50}$ of 1 per centum” and
24 inserting “ $\frac{1}{32}$ of 1 percent”; and

1 (C) by adding at the end thereof the fol-
2 lowing: “The fees required by this paragraph
3 are subject to adjustment by the Commission
4 pursuant to section 31A of the Securities Ex-
5 change Act of 1934. The authority to collect
6 such fees and the total amount of such fees are
7 subject to subsection (e) of such section.”.

8 (4) PROXY FILING FEES.—Section 14(g) of the
9 Securities Exchange Act of 1934 (15 U.S.C. 78n(g))
10 is amended—

11 (A) by striking “ $\frac{1}{50}$ of 1 per centum” each
12 place it appears in paragraphs (1)(A)(i),
13 (1)(A)(ii), and (3) and inserting “ $\frac{1}{32}$ of 1 per-
14 cent”;

15 (B) by redesignating paragraphs (1)
16 through (4) as paragraphs (2) through (5);

17 (C) by striking such subsection designation
18 and by inserting before such redesignated para-
19 graph (2) the following:

20 “(g)(1) The Commission shall, in accordance with
21 this paragraph and subject to section 31A(e), collect proxy
22 filing fees to recover the costs of supervision and regula-
23 tion of the proxy filing and disclosure process. Such costs
24 shall include a proportional share of related Commission
25 expenses in the following areas: enforcement activities,

1 policy and rulemaking activities, administration, legal
2 services, investor information services, and international
3 regulatory activities.”; and

4 (D) by adding at the end thereof the fol-
5 lowing new paragraph:

6 “(6) The fees required by this subsection are subject
7 to adjustment by the Commission pursuant to section 31A
8 of this title. The authority to collect such fees and the
9 total amount of such fees are subject to subsection (e) of
10 such section.”.

11 (c) EFFECTIVE DATES.—Except as otherwise pro-
12 vided therein, the amendments made by this section are
13 effective for fiscal years after fiscal year 1993.

14 **SEC. 4. FEE STRUCTURE STUDY.**

15 (a) STUDY REQUIRED.—The Securities and Ex-
16 change Commission shall conduct a study of the structure
17 and procedures for the collection of fees by the Commis-
18 sion pursuant to the amendments made by this Act. Such
19 study shall include (but not be limited to) an examination
20 of—

21 (1) the expanding statutory mandate and regu-
22 latory responsibilities of the Commission,

23 (2) the adequacy of current fees to meet Com-
24 mission resource needs,

Passed the House of Representatives July 20, 1993.

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